

Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOHN HENRY BROWNE and ALAN J.
WENOKUR, individually and on behalf of
others similarly situated,

Plaintiffs,

v.

AVVO, INC., MARK BRITTON and JOHN
DOES 1-25,

Defendants.

No. CV 07 920 RSL

DECLARATION OF STEVE W.
BERMAN IN CONNECTION WITH
PLAINTIFFS' OPPOSITION TO
MOTION TO DISMISS CLASS
ACTION COMPLAINT UNDER
FED. R. CIV. P. 12(C)

I, Steve W. Berman, declare:

1. I am a lawyer at Hagens Berman Sobol Shapiro LLP and one of the attorneys representing Plaintiffs and the proposed Class in this action. I am competent to testify to the matters herein.

2. The Complaint in this matter was filed on June 14, 2007, based on information available to Plaintiffs as of that date. The Complaint is based, in part, on information appearing on the Avvo website and information provided to Plaintiffs by lawyers from the various states in which Avvo operates.

3. Attached as Exhibit 1 are pages from the www.Avvo.com site of June 11, 2007 (Avvo to sell lawyer advertising).

DECLARATION OF STEVE W. BERMAN IN CONNECTION
WITH PLTFS' OPPOSITION TO MOT. TO DISMISS CLASS
ACTION COMPLAINT UNDER FED. R. CIV. P. 12(C) - 1
Case No. CV 07 920 RSL

001977-11 187032 V1



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1 4. Attached as Exhibit 2 are pages from the www.Avvo.com site of June 11, 2007
2 ("all lawyers are judged by the same standards").

3 5. Attached as Exhibit 3 is an excerpt of Plaintiff John Henry Browne's practice
4 profile from the www.Avvo.com site of June 14, 2007.

5 6. The advertising solicitation on the Avvo site the day the complaint was filed
6 states:

7 Get even more from Avvo: Advertise with us. Don't settle for
8 static yellow pages ads and expensive search engine clicks from
9 uninformed customers. Avvo will be introducing a full range of
targeted advertising solutions in the near future – let us know if
you're interested and we'll be in touch.

10 See Exhibit 1 at BD 3, (emphasis in original).

11 7. The site on the date the Complaint was filed used the word opinion only once.
12 About two-thirds of the way through the pages for that day, Avvo states as follows:

13 To calculate the Avvo Rating, we assign different weights to the
14 information in a lawyer's profile. While these weights reflect our
opinion that some things in a lawyer's profile are more important
15 than others, they are well-informed by our extensive research and
legal expertise.

16 See Exhibit 2 at BD 7, (emphasis added).

17 8. Plaintiffs believe that their complaint meets the pleading standards for specificity
18 and Fed. R. Civ. P. 12. In their opposition, however, Plaintiffs request that if the Court is
19 inclined to grant the Avvo Defendants' motion, Plaintiffs be granted leave to amend their
20 complaint. Plaintiffs Opp. at 25.

21 9. In addition, Plaintiffs have compiled information that they would use to amend
22 the Complaint, if necessary. The examples that would be attached are examples of Avvo's unfair
23 and inconsistent treatment of information concerning lawyers that have come to light since the
24 Complaint was filed. According to WSBA records, Seattle lawyer Bradley Rowland Marshall
25 was reprimanded in 1997 and suspended in May 2007. See Exhibit 4 at BD 18-19 (attached
26

hereto). The Avvo site recognizes the 1997 reprimand, but gives Mr. Marshall a “*No Concern*” rating. *Id.* at BD 16. Similarly, the WSBA censured Theresa Jean Gibbons in 1997 for “dishonesty, fraud, deceit or misrepresentation” in connection with her judicial campaign; Avvo rates her as “No Concern.” See Exhibit 5 at BD 22, BD 23A (attached hereto). Bernie Willard Pollard is also currently rated “No Concern,” even though the WSBA disbarred him in 2006. See Exhibit 6 at BD 25-26 (attached hereto). Robert Louis Butler of Seattle “resigned in lieu of disbarment,” but Avvo rates him as “No Concern.” See Exhibit 7 at BD 30, BD 32 (attached hereto). Karen Unger, a Port Angeles, Washington lawyer with 26 years experience in Washington, was initially rated 4.2 or “concern.” Unger had been admonished by the WSBA in 2004 for “her conduct in 2002 involving failing to promptly respond to the Bar Association’s request for information relevant to a grievance.” See Exhibit 8 at BD 35, BD 37A (attached hereto). The admonishment did not have to do with the substance of the underlying grievance. Her rating was lower than those of several disbarred lawyers. Avvo assigned Seattle lawyer Sherrie Bennett the lowest rating possible: 1.0 or “extreme caution.” The WSBA censured Bennett. In 2000, the WSBA suspended Bennett for 60 days *for failing to pay her bar dues*. See Exhibit 9 at BD 41, BD 44, BD 46-47 (attached hereto). The nature of the suspension is, of course, *not* identified on Bennett’s Avvo profile.

10. There are numerous examples of attorneys who have boosted their ratings by reporting biographical data irrelevant to the practice of law. For example, California lawyer Candace Ladley increased her Avvo rating by providing data on awards she received for raising prize winning alpacas. See Exhibit 10 attached hereto.

11. There are numerous cases other than Browne’s in which Avvo reports false practice areas in lawyer profiles. Avvo identifies Candace Ladley’s practice areas as including

1 “20% domestic,” although Ladley has not practiced domestic law for years and would never hold
2 herself out as a domestic lawyer. See Exhibit 10 attached hereto.

3 I declare under penalty of perjury that the foregoing is true and correct.

4 Executed on July 30, 2007, in Seattle, Washington.

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7 By: /s/ Steve W. Berman
Steve Berman

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DECLARATION OF STEVE W. BERMAN IN CONNECTION
WITH PLTFS’ OPPOSITION TO MOT. TO DISMISS CLASS
ACTION COMPLAINT UNDER FED. R. CIV. P. 12(C) - 4
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CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Bruce E.H. Johnson – brucejohnson@dwt.com

Stephen M. Rummage – steverummage@dwt.com

DATED: July 30, 2007

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